

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In Re

Chapter 7

MICHAEL R. MAEDER AND
KATHLEEN M. MAEDER

Case No.: 1-19-11086-MJK

Debtor.

Hon. Michael J. Kaplan

GREATER NIAGARA FRONTIER COUNCIL,
BOYS SCOUTS OF AMERICA
2860 GENESEE STREET
BUFFALO, NEW YORK 14225

A.P. No.: 19-

Plaintiff,

vs.

KATHLEEN M. MAEDER
59 A HINCHEY AVENUE
LANCASTER, NEW YORK 14086

Defendant.

COMPLAINT

Plaintiff, Greater Niagara Frontier Council, Boy Scouts of America (the "Plaintiff"), by and through its Attorneys, Colligan Law, LLP, complains of defendant and alleges:

JURISDICTION AND VENUE

1. The above-entitled United States Bankruptcy Court has jurisdiction of this adversary proceeding pursuant to 28 U.S.C. §§ 157, 1334; 11 U.S.C. §523. This is a core proceeding under 28 U.S.C. §§ 157 (b)(2)(I) and (J).
2. Venue of the adversary proceeding in this judicial district is appropriate pursuant to 28 U.S.C. § 1408.

THE PARTIES

3. Plaintiff is a named creditor of the bankruptcy estate of Michael R. Maeder and Kathleen M. Maeder (the "Debtor").

4. Upon information and belief, the Defendant, Kathleen M. Maeder, ("Ms. Maeder") is a citizen and resident of Erie County, New York.

BACKGROUND

5. The Debtor, filed a voluntary petition under Chapter 7 on May 28, 2019 (the "Petition Date"), in the United States Bankruptcy Court for the Western District of New York, Bankruptcy Case No.19-11086.

6. On November 9, 2007 and prior to the Petition Date, the Debtor filed a voluntary petition under Chapter 7 in the United States Bankruptcy Court for the Western District of New York, Bankruptcy Case No. 07-04644.

7. On April 4, 2008, the Plaintiff brought an adversary proceeding against the Defendant objecting to the discharge of its debt in the amount of \$155,639.00 pursuant to 11 U.S.C. §524(a)(4), fraud, as fiduciary, embezzlement larceny in the United States Bankruptcy Court for the Western District of New York, A.P. No. 08-01076. (See attached Exhibit A – Adversary Proceeding Cover Sheet and Complaint).

8. On July 3, 2008, and order and judgment by default was entered in A.P. No. 08-01076, that, "pursuant to 11 U.S.C. §523(a)4), the discharge under U.S.C. § does not discharge Defendant Kathleen M. Maeder from her debt to the Plaintiff". (See attached Exhibit B – Order and Judgment by Default).

9. There remains a balance due and owing on said Adversary Proceeding judgment in the sum of \$109,389.43. The obligation owed to the Plaintiff results from the fraud, or defalcation of the Defendant while acting in a fiduciary capacity, embezzlement or larceny.

10. The debt is non-dischargeable in accordance with the provisions of 11 U.S.C §523(a)(4).

11. The Plaintiff is entitled to the entry of a confirmatory judgment determining that the prior judgement of this Court rendered in Adversary Proceeding 08-01076 is non-dischargeable in this case and remains, to the extent of the balance owed, fully enforceable.

THEREFORE, the Plaintiff Debtor prays the Court for a confirmatory judgment against the Defendant:

- a. Declaring the Judgment rendered by this Court in Adversary Proceeding No. 08-01076 is non-dischargeable in the Defendant's current Bankruptcy Case No. 19-11086;
- b. Declaring the Judgment rendered by this Court in Adversary Proceeding No. 08-01076 remains fully enforceable to the extent permitted by the law;
- c. Award the Plaintiff its costs and reasonable Attorneys' fees for prosecution of this Adversary Proceeding; and
- d. Granting the Plaintiff such other and further relief as the court might deem to be just and proper.

Dated : Buffalo, New York
July 30, 2019

COLLIGAN LAW, LLP

By: /s/ Frederick J. Gawronski

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